STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED September 11, 2014
v	No. 316580 Wayne Circuit Court
KENNETH MAVERICK MADISON, Defendant-Appellant.	LC No. 09-021222-FC

Before: HOEKSTRA, P.J., and WILDER and FORT HOOD, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial conviction of bank robbery, MCL 750.531. Defendant was sentenced to 6 to 120 months' imprisonment. We affirm.

This case arises from a bank robbery that occurred on November 30, 2008, in Allen Park, Michigan. On that day, Precious Martin was working as a bank teller at a TCF Bank. Defendant walked into the bank and went to the kiosk where customers normally fill out a bank deposit or withdrawal slip. He then approached Martin's teller station. Martin informed defendant that he had to wait for a few moments because she was assisting another customer at the drive-through window. Despite the fact that Martin could not immediately help him, defendant refused help from another available teller. During the course of assisting the drive-through customer, Martin opened her register. Defendant looked at Martin, nodded his head, and said give me the money. When defendant said give me the money, Martin thought to herself, "[O]h s--t." Martin testified that she knew defendant was robbing the bank from the look in his eyes. Martin saw no weapons on defendant, and noted that defendant did not present Martin with a withdrawal or deposit slip. After defendant said give me the money, Martin immediately gave defendant the money in the register, which was the bank's policy. Defendant put the money in his pocket and ran out the front door. Martin alerted the branch manager, Devon Bradley, who contacted the police.

Defendant contends that insufficient evidence was presented at trial from which a rational trier of fact could find the essential elements of bank robbery were proven beyond a reasonable doubt. We disagree.

This Court reviews de novo a claim of insufficient evidence in a jury trial. *People v Kloosterman*, 296 Mich App 636, 639; 823 NW2d 134 (2012). This Court "must view the evidence in a light most favorable to the prosecution and determine whether the evidence was sufficient to allow any rational trier of fact to find guilt beyond a reasonable doubt." *Id.*

"Circumstantial evidence and reasonable inferences arising therefrom may be used to prove the elements of a crime." *People v Brantley*, 296 Mich App 546, 550; 823 NW2d 290 (2012).

The bank robbery statute, MCL 750.531, provides:

> Any person who, with intent to commit the crime of larceny, or any felony, shall confine, maim, injure or wound, or attempt, or threaten to confine, kill, maim, injure or wound, or *shall put in fear* any person for the purpose of stealing from any building, bank, safe or other depository of money, bond or other valuables, or shall by intimidation, fear or threats compel, or attempt to compel any person to disclose or surrender the means of opening any building, bank, safe, vault or other depository of money, bonds, or other valuables, or shall attempt to break, burn, blow up or otherwise injure or destroy any safe, vault or other depository of money, bonds or other valuables in any building or place, shall, whether he succeeds or fails in the perpetration of such larceny or felony, be guilty of a felony, punishable by imprisonment in the state prison for life or any term of years. [Emphasis added.]

Pursuant to MCL 750.531, a defendant can be convicted of bank robbery by having the intent to commit the crime of larceny, and putting in fear any person for the purpose of stealing from a bank. The elements of larceny are "[the] defendant (1) took someone else's property without consent, (2) moved the property, (3) intended to steal or permanently deprive the owner of the property, and (4) took the property from the person or from the person's immediate area of control or immediate presence." *Brantley*, 296 Mich App at 551.

Viewing the evidence in a light most favorable to the prosecution, the elements of bank robbery were established by the testimony of Precious Martin and Devon Bradley. First, there was sufficient evidence to show that defendant had intent to commit larceny. The elements of larceny were satisfied by evidence. The testimony showed that defendant took the bank's money from Martin's immediate area of control or presence without the consent of the bank employees. Defendant put the money in his pocket and ran out of the front door. Defendant intended to permanently deprive the bank of its money, as evidenced by defendant's failure to return the money. Thus, the evidence was clearly sufficient for a rational trier of fact to find defendant had the intent to commit the crime of larceny.

Second, sufficient evidence was also presented that defendant put fear into Martin for the purpose of stealing from the bank. Under MCL 750.531, there is no requirement that a defendant actually threaten a bank teller with harm; only that defendant "shall put in fear any person for the purpose of stealing." A fair inference from the evidence was that Martin feared defendant, and gave him the money because she feared him. Defendant stood at Martin's teller station while she was helping another customer, despite the fact that another teller was available. Defendant did not present Martin with a withdrawal or deposit slip for bank service, and when Martin opened the register, defendant looked at her, nodded his head, and then demanded the money. Martin testified that she could tell from the look in defendant's eyes that defendant was robbing the bank, and she thought to herself, "[O]h s--t." This is sufficient to prove that Martin was put in fear by defendant. In addition, this TCF Bank does not have bullet proof glass between a bank teller and customers, which further supports a reasonable inference that Martin

had a reason to be fearful. See *Brantley*, 296 Mich App at 550. Therefore, in viewing the evidence in a light most favorable to the prosecution, sufficient evidence was presented at trial that could lead a rational trier of fact to find that the essential elements of bank robbery were proven beyond a reasonable doubt.

Defendant asserts that the prosecution was required to show that defendant that was committing or attempting to commit larceny and that the defendant did so by using intimidation or threats. Defendant bases his argument on the trial court's jury instruction, which stated that the jury must find that defendant made or attempted to make Martin give him the money, and that he did so using intimidation or threats. We disagree with defendant. Under the plain language of MCL 750.531, acknowledged by defendant in his brief on appeal, it is enough to show that defendant put in fear any person for the purpose of stealing. As explained above, we hold the prosecution met that burden. Even assuming the prosecution did need to prove that defendant used intimidation or threats, we hold that there were sufficient facts to support a reasonable inference of an implied threat by defendant to Martin.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Kurtis T. Wilder
/s/ Karen M. Fort Hood